

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

JINSHU ZHANG (SBN 166981)
john.zhang@dentons.com
FELIX WOO (SBN 208107)
felix.woo@dentons.com
DENTONS US LLP
601 South Figueroa Street, Suite 2500
Los Angeles, California 90017-5704
Telephone: (213) 623-9300
Facsimile: (213) 623-9924

Attorneys for Defendants
DOUBLESTAR DONG FENG TYRE CO.,
LTD., QINGDAO DOUBLESTAR TIRE
INDUSTRIAL CO., LTD., and
DOUBLESTAR GROUP CORP.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

TOYO TIRE AND RUBBER CO.,
LTD., a Japanese corporation, and
TOYO TIRE U.S.A. CORP., a California
corporation,

Plaintiffs,

v.

CIA WHEEL GROUP, a California
corporation, DOUBLESTAR DONG
FENG TYRE CO., LTD., a Chinese
corporation, QINGDAO DOUBLESTAR
TIRE INDUSTRIAL CO., LTD., a
Chinese corporation, and
DOUBLESTAR GROUP CORP., a
Chinese corporation,

Defendants.

Case No. SA-CV 15-00246 DOC
(DFMx)

**DEFENDANTS' ANSWER TO
FIRST AMENDED COMPLAINT**

1 Defendants DOUBLESTAR DONG FENG TYPE CO., LTD. (“Doublestar
2 DFT”), QINGDAO DOUBLESTAR TIRE INDUSTRIAL CO., LTD. (“Doublestar
3 Qingdao”), and DOUBLESTAR GROUP CORP. (“Doublestar Group”)
4 (collectively, “Defendants”) respond to Plaintiffs’ First Amended Complaint as
5 follows below, and for themselves only, and not any other named defendants.

6 Defendants deny all of the allegations in the Complaint except as specifically
7 admitted, deny any allegations as to which there is no specific response required,
8 denies all titles, headings, footnotes, subheadings, and any other material not
9 contained in numbered paragraphs, and denies that it violated federal or state law in
10 any way. Defendants also lack knowledge or information sufficient to form a belief
11 about the truth of the allegations in the Complaint as they relate to any other
12 named-defendants and, therefore, denies all such allegations.

13 **JURISDICTION AND VENUE**

14 1. Defendants admit that Plaintiffs purport to bring this civil action and
15 allege violations of state and federal law, and that this Court has subject matter
16 jurisdiction over those claims. Defendants deny all other allegations in Paragraph
17 1.

18 2. Doublestar DFT and Doublestar Qingdao admit that this Court has
19 personal jurisdiction over them, and that venue is appropriate in this District.
20 Doublestar Group denies that there exists personal jurisdiction over it in this state
21 or in this district. Defendants lack knowledge or information sufficient to form a
22 belief about the truth of the allegations regarding defendant Hong Kong Tri-Ace
23 Tire Co., Ltd. Defendants deny all of the other allegations of this Paragraph 2.

24 **THE PARTIES**

25 3. To the extent that any information contained in Paragraph 3 is
26 definitional in nature, no response is required. Defendants lack knowledge or
27 information sufficient to form a belief about the truth of the remaining allegations
28

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

1 of Paragraph 3 and, therefore, deny those allegations of this Paragraph.

2 4. To the extent that any information contained in Paragraph 4 is
3 definitional in nature, no response is required. Defendants lack knowledge or
4 information sufficient to form a belief about the truth of the remaining allegations
5 of Paragraph 4 and, therefore, deny those allegations of this Paragraph.

6 5. To the extent that any information contained in Paragraph 3 is
7 definitional in nature, no response is required. Defendants lack knowledge or
8 information sufficient to form a belief about the truth of the remaining allegations
9 of Paragraph 3 and, therefore, deny those allegations of this Paragraph.

10 6. Defendants admit this paragraph. Doublestar DFT denies that
11 American A9 Enterprise is its registered agent.

12 7. Defendants admit this paragraph.

13 8. Defendants admit this paragraph.

14 9. Defendants admit that they are corporate affiliates. To the extent that
15 any other information contained in Paragraph 9 is definitional in nature, no
16 response is required.

17 10. To the extent that any information contained in Paragraph 10 is
18 definitional in nature, no response is required. Defendants lack knowledge or
19 information sufficient to form a belief about the truth of the remaining allegations
20 of Paragraph 10 and, therefore, deny those allegations of this Paragraph.

21 11. To the extent that any information contained in Paragraph 11 is
22 definitional in nature, no response is required. Defendants lack knowledge or
23 information sufficient to form a belief about the truth of the remaining allegations
24 of Paragraph 11 and, therefore, deny those allegations of this Paragraph.

25 12. To the extent that any information contained in Paragraph 12 is
26 definitional in nature, no response is required. Defendants lack knowledge or
27 information sufficient to form a belief about the truth of the remaining allegations
28

1 of Paragraph 12 and, therefore, deny those allegations of this Paragraph.

2 13. To the extent that any information contained in Paragraph 13 is
3 definitional in nature, no response is required. Defendants lack knowledge or
4 information sufficient to form a belief about the truth of the remaining allegations
5 of Paragraph 13 and, therefore, deny those allegations of this Paragraph.

6 14. Defendants lack knowledge or information sufficient to form a belief
7 about the truth of the allegations of Paragraph 14 and, therefore, deny those
8 allegations of this Paragraph.

9 15. Doublestar DFT and Doublestar Qingdao admit that they transact
10 business related to tires in this district. Doublestar Group denies that it transacts
11 business related to tires in this district. Defendants lack knowledge or information
12 sufficient to form a belief about the truth of the remaining allegations of Paragraph
13 15 and, therefore, deny those allegations of this Paragraph.

14 16. Defendants lack knowledge or information sufficient to form a belief
15 about the truth of the allegations of Paragraph 16 and, therefore, deny those
16 allegations of this Paragraph.

17 17. Defendants deny the allegations of this Paragraph 17 that are directed
18 to them, and lack knowledge or information sufficient to form a belief about the
19 truth of the allegations as to the non-Doublestar Defendants, and therefore deny
20 those allegations of this Paragraph.

21 18. Defendants deny the allegations of this Paragraph 18 that are directed
22 to them, and lack knowledge or information sufficient to form a belief about the
23 truth of the allegations as to the non-Doublestar Defendants, and therefore deny
24 those allegations of this Paragraph.

25 19. Defendants deny the allegations of this Paragraph 19 that are directed
26 to them, and lack knowledge or information sufficient to form a belief about the
27 truth of the allegations as to the non-Doublestar Defendants, and therefore deny
28

1 those allegations of this Paragraph.

2 20. Defendants deny the allegations of this Paragraph 20 that are directed
3 to them, and lack knowledge or information sufficient to form a belief about the
4 truth of the allegations as to the non-Doublestar Defendants, and therefore deny
5 those allegations of this Paragraph.

6 **FACTUAL BACKGROUND**

7 21. To the extent that any information contained in Paragraph 21 is
8 definitional in nature, no response is required. Defendants lack knowledge or
9 information sufficient to form a belief about the truth of the remaining allegations
10 of Paragraph 21 and, therefore, deny those allegations of this Paragraph.

11 22. To the extent that any information contained in Paragraph 22 is
12 definitional in nature, no response is required. Defendants lack knowledge or
13 information sufficient to form a belief about the truth of the remaining allegations
14 of Paragraph 22 and, therefore, deny those allegations of this Paragraph.

15 23. To the extent that any information contained in Paragraph 23 is
16 definitional in nature, no response is required. Defendants lack knowledge or
17 information sufficient to form a belief about the truth of the remaining allegations
18 of Paragraph 14 and, therefore, deny those allegations of this Paragraph.

19 24. To the extent that any information contained in Paragraph 24 is
20 definitional in nature, no response is required. Defendants deny that “Toyo has a
21 protectable trade dress in the overall appearance of its Open Country M/T tires.”
22 Although Doublestar DFT executed a stipulation in the matter styled *Toyo Tire &*
23 *Rubber Co., Ltd. And Toyo Tire U.S.A. Corp. v. Hong Kong Tri-Ace Tire Co., Ltd.*
24 *et al.*, Case No. 8:14-SACV-00054-CJC (JPRx) (the “Tri-Ace Action”), it is clear
25 that stipulation (Dkt#8) related solely to Doublestar DFT’s agreement to be
26 enjoined as set forth therein, and in the resulting Final Judgment (Dkt#10).
27 Doublestar DFT did not agree, and was not required to by the language of the
28

1 stipulation, to Plaintiffs' self-serving factual recitations or legal conclusions, when
2 the purpose of that stipulation was to alter and enjoin Doublestar DFT's future
3 conduct and to end the litigation.

4 25. To the extent that any information contained in Paragraph 25 is
5 definitional in nature, no response is required. Defendants deny the remainder of
6 the allegations in Paragraph 25.

7 26. Defendant deny the allegations in Paragraph 26. Plaintiffs' marketing
8 materials admit that the very design elements previously, and now, claimed to be
9 trade dress had functional purposes and were not arbitrary.

10 27. To the extent that any information contained in Paragraph 27 is
11 definitional in nature, no response is required. Defendants deny the allegations of
12 this Paragraph.

13 28. Defendants lack knowledge or information sufficient to form a belief
14 about the truth of the allegations of Paragraph 28 that are opinion in nature (e.g.,
15 "aesthetically pleasing"), and deny the remainder of the allegations of this
16 Paragraph. Moreover, Defendants note that since Plaintiffs filed the Tri-Ace
17 Action, they have significantly and materially walked back on the trade dress
18 description used in that case because they now know their initial trade dress claims
19 were made in bad faith, and that their so-called trade dress claims in the litigation
20 were belied by their website marketing of the same products, in which Plaintiffs
21 admitted that all of the design characteristics they claim are trade dress have
22 functional purposes. In the Tri-Ace Action Complaint, Plaintiffs claimed the
23 following: "the ornamental, distinctive 'look' of the Open Country M/T tire has
24 become associated with the Toyo brand. This 'look' includes *open scalloped*
25 *shoulder blocks*, an aggressive, *attack tread* with *hook-shaped blocks*, a *distinctive*
26 *over-the-shoulder tread*, and *deep siping in the tread blocks*. (Emphasis added). In
27 this action, however, Plaintiffs have watered down their prior allegations on the
28

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

1 very same product, and now claim feebly only that: the “OPMT Trade Dress is
2 characterized by an aggressive tread design with hook-shaped blocks and scalloped
3 shoulder blocks.” (FAC, Para. 27). They also now claim that the “aggressive
4 appearance” has a source-identifying role “regardless of the functional aspects of
5 any individual element of that trade dress,” which is another way of Plaintiffs
6 saying they know they previously admitted, proudly, on their marketing materials
7 that every element of trade dress they previously claimed was in fact, functional
8 and non-arbitrary, those same characteristics also happen to be source-identifying
9 as well, which is fatal to the very trade dress claims being alleged.

10 29. Defendants deny the allegations of this Paragraph.

11 30. Defendants lack knowledge or information sufficient to form a belief
12 about the truth of the allegations of Paragraph 30 and, therefore, deny those
13 allegations of this Paragraph.

14 31. Defendants lack knowledge or information sufficient to form a belief
15 about the truth of the allegations of Paragraph 31 and, therefore, deny those
16 allegations of this Paragraph.

17 32. Defendants lack knowledge or information sufficient to form a belief
18 about the truth of the allegations of Paragraph 32 and, therefore, deny those
19 allegations of this Paragraph.

20 33. Defendants deny the allegations in Paragraph 33.

21 34. Defendants lack knowledge or information sufficient to form a belief
22 about the truth of the allegations of Paragraph 34 and, therefore, deny those
23 allegations of this Paragraph.

24 35. Defendants admit the molds used to manufacture the AMP M/T are
25 owned by Ma.

26 36. Defendants admit that Doublestar DFT and Doublestar QDT
27 manufacture the AMP M/T tires based on molds owned by Ma.
28

1 37. Defendants admit that Doublestar DFT and Doublestar QDT ship the
2 AMP M/T tires FOB a port in China for delivery to Tri-Ace or a company affiliated
3 or associates with Tri-Ace.

4 38. Defendants deny the allegations in Paragraph 38.

5 39. The allegations in this Paragraph 39 are legal conclusions and
6 ambiguous statements, and therefore, Defendants deny the allegations.

7 40. Defendants lack knowledge or information sufficient to form a belief
8 about the truth of the allegations of Paragraph 40 and, therefore, deny those
9 allegations of this Paragraph.

10 41. Defendant Doublestar DFT admits it was named in the ITC Action.
11 Defendants lack knowledge or information sufficient to form a belief about the
12 truth of the remaining allegations of Paragraph 41 and, therefore, deny those
13 allegations of this Paragraph.

14 42. Defendant Doublestar DFT admits it manufactured the Mark Ma
15 Dakar M/T tire and sold it to Tri-Ace. Defendants are informed and believe the
16 Mark Ma Dakar M/T was designed by Ma. Although the AMP M/T tire was not
17 directly put in issue in the actual ITC Action, Defendants are informed and believe
18 that Toyo was aware of the AMP M/T tire during the pendency of the ITC Action,
19 and if Toyo believed the AMP M/T Tire infringed its intellectual property rights, it
20 would have made this evident at the time, which it admits it did.

21 43. Doublestar DFT admits that it filed the Consent Order Stipulation in
22 the ITC Action. The other Defendants lack knowledge or information sufficient to
23 form a belief about the truth of the remaining allegations of Paragraph 43 and,
24 therefore, deny those allegations of this Paragraph.

25 44. To the extent that any information contained in Paragraph 44 is
26 definitional in nature, no response is required. Defendants lack knowledge or
27 information sufficient to form a belief about the truth of the remaining allegations
28

1 of Paragraph 44 and, therefore, deny those allegations of this Paragraph, except that
2 Toyo's admission that it listed the AMP M/T tire as a tire it allegedly believed
3 violated its intellectual property rights, but did not request to be included in the tires
4 that Doublestar DFT be barred from manufacturing bars any claim in this case that
5 Doublestar DFT agreed not to manufacture the AMP M/T or committed any fraud
6 in connection with its continued manufacture of the AMP M/T.

7 45. Defendants lack knowledge or information sufficient to form a belief
8 about the truth of the allegations of Paragraph 45 and, therefore, deny those
9 allegations of this Paragraph.

10 46. Defendants lack knowledge or information sufficient to form a belief
11 about the truth of the allegations of Paragraph 46 (and its subparts) and, therefore,
12 deny those allegations of this Paragraph.

13 47. Defendants lack knowledge or information sufficient to form a belief
14 about the truth of the allegations of Paragraph 47 and, therefore, deny those
15 allegations of this Paragraph.

16 48. Defendants lack knowledge or information sufficient to form a belief
17 about the truth of the allegations of Paragraph 48 and, therefore, deny those
18 allegations of this Paragraph, except to point out that Toyo's assertion that the Mark
19 Ma Dakar and AMP M/T tires are indistinguishable, when combined with its
20 admissions in Paragraph 44 that it believed the AMP M/T was a problematic tire,
21 but did not require Doublestar DFT to agree not to manufacture the AMP M/T,
22 demonstrates that Toyo willingly chose not to enforce its rights against Doublestar
23 DFT as to the AMP M/T at that time.

24 49. Defendants lack knowledge or information sufficient to form a belief
25 about the truth of the allegations of Paragraph 49 and, therefore, deny those
26 allegations of this Paragraph.

27 50. Doublestar DFT admits that Toyo provided it with the manufacturer's
28

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

1 questionnaire identified in Paragraph 50 but deny that providing information in
2 response to that gratuitous and non-binding document limits its defenses in this
3 case, or supports Plaintiffs' alleged fraud claims. The other Defendants lack
4 knowledge or information sufficient to form a belief about the truth of the
5 allegations of Paragraph 49 and, therefore, deny those allegations of this Paragraph.

6 51. To the extent that any information contained in Paragraph 51 is
7 definitional in nature, no response is required.

8 52. Defendants deny the allegations of Paragraph 52.

9 53. Defendants deny the conclusory allegation in Paragraph 53
10 concerning the "close coordination" among Doublestar DFT and Tri-Ace/Ma, and
11 Doublestar DFT admits that the document speaks for itself and any conclusions that
12 Toyo desires to draw from it can be done from the face of the document.

13 54. Defendant Doublestar DFT admits the AMP M/T was not listed on the
14 questionnaire, but that even if it was intentionally omitted by Doublestar DFT
15 (Doublestar DFT cannot speak for Tri-Ace or Ma), which it was not, such omission
16 was of no consequence, as there are industry standard markings and methods by
17 which Toyo would have known that the AMP M/T was manufacturer by Doublestar
18 DFT, and its own failure to identify this fact cannot be blamed on the omission
19 from a manufacturer's questionnaire that Doublestar DFT was not even required by
20 law to execute, and that it gratuitously provided to Toyo. The other Defendants
21 lack knowledge or information sufficient to form a belief about the truth of the
22 allegations of Paragraph 54 and, therefore, deny those allegations of this Paragraph.

23 55. Defendant Doublestar DFT denies the allegations of this Paragraph 55.
24 The other Defendants lack knowledge or information sufficient to form a belief
25 about the truth of the allegations of Paragraph 55 and, therefore, deny those
26 allegations of this Paragraph.

27 56. Defendants lack knowledge or information sufficient to form a belief
28

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

1 about the truth of the allegations of Paragraph 56 and, therefore, deny those
2 allegations of this Paragraph.

3 57. Defendants lack knowledge or information sufficient to form a belief
4 about the truth of the allegations of Paragraph 57 and, therefore, deny those
5 allegations of this Paragraph.

6 58. Defendant Doublestar DFT denies the allegations of this Paragraph 55.
7 The other Defendants lack knowledge or information sufficient to form a belief
8 about the truth of the allegations of Paragraph 58 and, therefore, deny those
9 allegations of this Paragraph.

10 59. Defendants lack knowledge or information sufficient to form a belief
11 about the truth of the allegations of Paragraph 59 and, therefore, deny those
12 allegations of this Paragraph.

13 60. Defendants lack knowledge or information sufficient to form a belief
14 about the truth of the allegations of Paragraph 60 and, therefore, deny those
15 allegations of this Paragraph.

16 61. Defendants lack knowledge or information sufficient to form a belief
17 about the truth of the allegations of Paragraph 61 and, therefore, deny those
18 allegations of this Paragraph.

19 62. Defendant Doublestar DFT denies that it benefitted from any alleged
20 lying by others. In any event, Defendants lack knowledge or information sufficient
21 to form a belief about the truth of the allegations of Paragraph 62 and, therefore,
22 deny those allegations of this Paragraph.

23 63. Defendants deny the allegations of this Paragraph 63.

24 64. Defendants admit that Toyo has claimed that this was the first time its
25 counsel learned of this fact, but have no reason to know if this is in fact true as to
26 Toyo itself.

27 65. To the extent that any information contained in Paragraph 65 is
28

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

1 definitional in nature, no response is required. Defendant Doublestar DFT very
2 much doubts the truth of the allegations as to Toyo's motivation for why it filed the
3 action and what it determined to include in the action, and denies the allegation that
4 it made any misrepresentations. Defendants Doublestar Qindao and Doublestar
5 Group lack knowledge or information sufficient to form a belief about the truth of
6 the allegations of Paragraph 65

7 66. Defendants Doublestar Qindao and Doublestar Group lack knowledge
8 or information sufficient to form a belief about the truth of the allegations of
9 Paragraph 66 and, therefore, deny those allegations of this Paragraph. Doublestar
10 DFT admits that it executed a stipulation in the Tri-Ace Action and agreed to be
11 enjoined as set forth in the Final Judgment of that case, but denies for purposes of
12 this action that it agreed to the factual and legal conclusions contained in that
13 stipulation, as such conclusions were not necessary to the stipulation and judgment
14 that were entered in that case.

15 67. Defendants Doublestar Qindao and Doublestar Group lack knowledge
16 or information sufficient to form a belief about the truth of the allegations of
17 Paragraph 67 and, therefore, deny those allegations of this Paragraph. Doublestar
18 DFT admits that it agreed to be enjoined as set forth in the Final Judgment of that
19 case, but denies for purposes of this action that it agreed to the factual and legal
20 conclusions contained in the accompanying stipulation, as such conclusions were
21 not necessary to the stipulation and judgment that were entered in that case.

22 68. Defendants Doublestar Qindao and Doublestar Group lack knowledge
23 or information sufficient to form a belief about the truth of the allegations of
24 Paragraph 68 and, therefore, deny those allegations of this Paragraph. Doublestar
25 DFT admits that a Final Judgment was entered in the Tri-Ace Action enjoining it as
26 described in this paragraph. Defendants deny that the Final Judgment was, or is,
27 valid as to entities that were not parties to the Tri-Ace Action for, among other
28

1 things, due process and jurisdictional issues.

2 69. To the extent that any information contained in Paragraph 69 is
3 definitional or informational in nature, no response is required. Defendants lack
4 knowledge or information sufficient to form a belief about the truth of the
5 remaining allegations of Paragraph 69 and, therefore, deny those allegations of this
6 Paragraph, except to point out that Toyo's allegation about the Mark Ma Dakar tires
7 being "renamed" is nonsensical because Toyo was already aware prior to this time
8 that the AMP M/T was a separately sold tire.

9 70. The first sentence of this paragraph is unintelligible. Defendant
10 Doublestar DFT denies all of the allegations of this Paragraph 70 directed to it.
11 Defendants lack knowledge or information sufficient to form a belief about the
12 truth of the remaining allegations of Paragraph 70 and, therefore, deny those
13 allegations of this Paragraph.

14 71. Defendants deny the allegations of this Paragraph 71.

15 72. Defendants Doublestar DFT and Doublestar Qingdao admit to having
16 manufactured the AMP M/T tire with molds owned by Ma. These Doublestar
17 Defendants ship the tires FOB a port in China to Tri-Ace or its affiliate.

18 73. Defendants deny the allegations and incorrect legal conclusions in this
19 Paragraph 73.

20 74. Defendants deny the allegations and incorrect legal conclusions in this
21 Paragraph 74.

22 75. Defendants deny the allegations and incorrect legal conclusions in this
23 Paragraph 75.

24 76. Defendants lack knowledge or information sufficient to form a belief
25 about the truth of the allegations of Paragraph 76 and, therefore, deny those
26 allegations of this Paragraph.

27 77. Defendants lack knowledge or information sufficient to form a belief
28

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

1 about the truth of the allegations of Paragraph 77 and, therefore, deny those
2 allegations of this Paragraph.

3 78. Defendants lack knowledge or information sufficient to form a belief
4 about the truth of the allegations of Paragraph 78 and, therefore, deny those
5 allegations of this Paragraph.

6 79. Defendants lack knowledge or information sufficient to form a belief
7 about the truth of the allegations of Paragraph 79 and, therefore, deny those
8 allegations of this Paragraph.

9 80. Defendants lack knowledge or information sufficient to form a belief
10 about the truth of the allegations of Paragraph 80 and, therefore, deny those
11 allegations of this Paragraph.

12 81 Defendants lack knowledge or information sufficient to form a belief
13 about the truth of the allegations of Paragraph 81 and, therefore, deny those
14 allegations of this Paragraph.

15 82. Defendants lack knowledge or information sufficient to form a belief
16 about the truth of the allegations of Paragraph 82 and, therefore, deny those
17 allegations of this Paragraph.

18 83. Defendants lack knowledge or information sufficient to form a belief
19 about the truth of the allegations of Paragraph 83 and, therefore, deny those
20 allegations of this Paragraph.

21 84. Defendants lack knowledge or information sufficient to form a belief
22 about the truth of the allegations of Paragraph 84 and, therefore, deny those
23 allegations of this Paragraph.

24 85. Defendants lack knowledge or information sufficient to form a belief
25 about the truth of the allegations of Paragraph 85 and, therefore, deny those
26 allegations of this Paragraph.

27 86. Defendants lack knowledge or information sufficient to form a belief
28

1 about the truth of the allegations of Paragraph 86 and, therefore, deny those
2 allegations of this Paragraph.

3 87. Defendants lack knowledge or information sufficient to form a belief
4 about the truth of the allegations of Paragraph 87 and, therefore, deny those
5 allegations of this Paragraph.

6 **RESPONSE TO CLAIM 1: TRADE DRESS INFRINGEMENT BY**
7 **THE AMP M/T TIRE**

8 88. Defendants reallege and incorporate by reference their admissions,
9 responses and denials to paragraphs 1 through 87 above as though fully set forth
10 here.

11 89. This allegation is purely definitional or informational in nature and no
12 response is required.

13 90. Defendants deny the allegations of Paragraph 90.

14 91. Defendants Doublestar Qingdao and Doublestar DFT admit making
15 and exporting the AMP M/T tire, and deny the remainder of the allegations in
16 Paragraph 40. Doublestar Group denies the allegations in Paragraph 91.

17 92. Defendants deny the allegations of Paragraph 92.

18 93. Defendants Doublestar Qingdao and Doublestar DFT admit using the
19 molds supplied by Ma. Defendants lack knowledge or information sufficient to
20 form a belief about the truth of the remaining allegations of Paragraph 93 and,
21 therefore, deny those allegations of this Paragraph.

22 94. Defendants lack knowledge or information sufficient to form a belief
23 about the truth of the allegations of Paragraph 94 and, therefore, deny those
24 allegations of this Paragraph.

25 95. Defendants Doublestar DFT and Doublestar Qingdao admit they have
26 sold the AMP M/T tires to Tri-Ace or its affiliate. Defendants lack knowledge or
27 information sufficient to form a belief about the truth of the remaining allegations
28

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

1 of Paragraph 95 and, therefore, deny those allegations of this Paragraph.

2 96. Defendants deny the allegations of this Paragraph 96.

3 97. Defendants deny the allegations of this Paragraph 97.

4 98. Defendants deny the allegations of this Paragraph 98.

5 99. Defendants lack knowledge or information sufficient to form a belief
6 about the truth of the allegations of Paragraph 99 and, therefore, deny those
7 allegations of this Paragraph.

8 100. Defendants deny the allegations of Paragraph 100.

9 101. Defendants lack knowledge or information sufficient to form a belief
10 about the truth of the allegations of Paragraph 101 and, therefore, deny those
11 allegations of this Paragraph.

12 102. Defendants lack knowledge or information sufficient to form a belief
13 about the truth of the allegations of Paragraph 102 and, therefore, deny those
14 allegations of this Paragraph.

15 103. Defendants deny the allegations of Paragraph 103.

16 104. Defendants deny the allegations of Paragraph 104.

17 105. Defendants deny the allegations of Paragraph 105.

18 **RESPONSE TO CLAIM 2: FRAUD AS TO TRI-ACE AND MA**

19 106. Defendants reallege and incorporate by reference their admissions,
20 responses and denials to paragraphs 1 through 87 above as though fully set forth
21 here.

22 107. Defendants lack knowledge or information sufficient to form a belief
23 about the truth of the allegations of Paragraph 107 and, therefore, deny those
24 allegations of this Paragraph.

25 108. Defendants lack knowledge or information sufficient to form a belief
26 about the truth of the allegations of Paragraph 108 and, therefore, deny those
27 allegations of this Paragraph.
28

1 109. Defendants lack knowledge or information sufficient to form a belief
2 about the truth of the allegations of Paragraph 109 and, therefore, deny those
3 allegations of this Paragraph.

4 110. Defendants lack knowledge or information sufficient to form a belief
5 about the truth of the allegations of Paragraph 110 and, therefore, deny those
6 allegations of this Paragraph.

7 111. Defendants lack knowledge or information sufficient to form a belief
8 about the truth of the allegations of Paragraph 111 and, therefore, deny those
9 allegations of this Paragraph.

10 112. Defendants lack knowledge or information sufficient to form a belief
11 about the truth of the allegations of Paragraph 112 and, therefore, deny those
12 allegations of this Paragraph.

13 113. Defendants lack knowledge or information sufficient to form a belief
14 about the truth of the allegations of Paragraph 113 and, therefore, deny those
15 allegations of this Paragraph.

16 114. Defendants lack knowledge or information sufficient to form a belief
17 about the truth of the allegations of Paragraph 114 and, therefore, deny those
18 allegations of this Paragraph.

19 115. Defendants lack knowledge or information sufficient to form a belief
20 about the truth of the allegations of Paragraph 115 and, therefore, deny those
21 allegations of this Paragraph.

22 116. Defendants lack knowledge or information sufficient to form a belief
23 about the truth of the allegations of Paragraph 116 and, therefore, deny those
24 allegations of this Paragraph.

25 117. Defendants lack knowledge or information sufficient to form a belief
26 about the truth of the allegations of Paragraph 117 and, therefore, deny those
27 allegations of this Paragraph.
28

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

1 118. Defendants lack knowledge or information sufficient to form a belief
2 about the truth of the allegations of Paragraph 118 and, therefore, deny those
3 allegations of this Paragraph.

4 119. Defendants lack knowledge or information sufficient to form a belief
5 about the truth of the allegations of Paragraph 119 and, therefore, deny those
6 allegations of this Paragraph.

7 120. Defendants lack knowledge or information sufficient to form a belief
8 about the truth of the allegations of Paragraph 120 and, therefore, deny those
9 allegations of this Paragraph.

10 121. Defendants lack knowledge or information sufficient to form a belief
11 about the truth of the allegations of Paragraph 121 and, therefore, deny those
12 allegations of this Paragraph.

13 122. Defendants lack knowledge or information sufficient to form a belief
14 about the truth of the allegations of Paragraph 122 and, therefore, deny those
15 allegations of this Paragraph.

16 **RESPONSE TO CLAIM 3: FRAUD AS TO DDF**

17 123. Defendants reallege and incorporate by reference their admissions,
18 responses and denials to paragraphs 1 through 87 above as though fully set forth
19 here.

20 124. DEFINITIONAL

21 125.

22 126.

23 127.

24 128.

25 129.

26 130.

27 131.

DENTONS US LLP
601 SOUTH FIGUEROA STREET, SUITE 2500
LOS ANGELES, CALIFORNIA 90017-5704
(213) 623-9300

**RESPONSE TO CLAIM 4: BREACH OF CONTRACT AS TO TRI-
ACE AND MA**

132. Defendants reallege and incorporate by reference their admissions, responses and denials to paragraphs 1 through 87 above as though fully set forth here.

133. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 133 and, therefore, deny those allegations of this Paragraph.

134. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 134 and, therefore, deny those allegations of this Paragraph.

135. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 135 and, therefore, deny those allegations of this Paragraph.

136. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 136 and, therefore, deny those allegations of this Paragraph.

137. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 137 and, therefore, deny those allegations of this Paragraph.

138. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 138 and, therefore, deny those allegations of this Paragraph.

139. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 139 and, therefore, deny those allegations of this Paragraph.

RESPONSE TO CLAIM 5: BREACH OF CONTRACT AS TO DDF

140. Defendants reallege and incorporate by reference their admissions, responses and denials to paragraphs 1 through 87 above as though fully set forth here.

141. To the extent that any information contained in Paragraph 141 is definitional in nature, no response is required.

142. Doublestar DDF denies the allegations of Paragraph 142.

143. Doublestar DDF denies the allegations of Paragraph 143.

144. Doublestar DDF denies the allegations of Paragraph 144.

145. Doublestar DDF denies the allegations of Paragraph 145.

146. Doublestar DDF denies the allegations of Paragraph 146.

RESPONSE TO CLAIM 6: STATE LAW UNFAIR COMPETITION

147. Defendants reallege and incorporate by reference their admissions, responses and denials to paragraphs 1 through 146 above as though fully set forth here.

148. To the extent that any information contained in Paragraph 148 is definitional in nature, no response is required.

149. Defendants deny the allegations of Paragraph 149.

150. Defendants deny the allegations of Paragraph 150.

**RESPONSE TO CLAIM 7: DECLARATORY JUDGMENT OF
PATENT INVALIDITY**

151. Defendants reallege and incorporate by reference their admissions, responses and denials to paragraphs 1 through 87 above as though fully set forth here.

152. To the extent that any information contained in Paragraph 152 is definitional in nature, no response is required.

153. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 153 and, therefore, deny those

1 allegations of this Paragraph.

2 154. Defendants lack knowledge or information sufficient to form a belief
3 about the truth of the allegations of Paragraph 154 and, therefore, deny those
4 allegations of this Paragraph.

5 155. Defendants lack knowledge or information sufficient to form a belief
6 about the truth of the allegations of Paragraph 155 and, therefore, deny those
7 allegations of this Paragraph.

8 156. Defendants lack knowledge or information sufficient to form a belief
9 about the truth of the allegations of Paragraph 156 and, therefore, deny those
10 allegations of this Paragraph.

11 **RESPONSE TO CLAIM 7: DECLARATORY JUDGMENT OF**
12 **PATENT INVALIDITY**

13 157. Defendants reallege and incorporate by reference their admissions,
14 responses and denials to paragraphs 1 through 87 above as though fully set forth
15 here.

16 158. To the extent that any information contained in Paragraph 158 is
17 definitional in nature, no response is required.

18 159. Defendants lack knowledge or information sufficient to form a belief
19 about the truth of the allegations of Paragraph 159 and, therefore, deny those
20 allegations of this Paragraph.

21 160. Defendants lack knowledge or information sufficient to form a belief
22 about the truth of the allegations of Paragraph 160 and, therefore, deny those
23 allegations of this Paragraph.

24 161. Defendants lack knowledge or information sufficient to form a belief
25 about the truth of the allegations of Paragraph 161 and, therefore, deny those
26 allegations of this Paragraph.

27 162. Defendants lack knowledge or information sufficient to form a belief
28

1 about the truth of the allegations of Paragraph 162 and, therefore, deny those
2 allegations of this Paragraph.

3 163. Defendants lack knowledge or information sufficient to form a belief
4 about the truth of the allegations of Paragraph 163 and, therefore, deny those
5 allegations of this Paragraph.

6 164. Defendants lack knowledge or information sufficient to form a belief
7 about the truth of the allegations of Paragraph 164 and, therefore, deny those
8 allegations of this Paragraph.

9 **RESPONSE TO PRAYER FOR RELIEF**

10 Defendants are not required to respond to Plaintiffs' Prayer for Relief.

11 **DEFENDANTS' DEFENSES**

12 Defendants asserts the following defenses to the Complaint. Defendants
13 reserve their right to raise additional defenses that become known through the
14 course of discovery. Defendants do not bear the burden of proof as to any defense
15 that the law does not so require.

16 1. The Complaint fails, in whole or in part, to state a claim upon which
17 relief can be granted.

18 2. Plaintiffs' claims are barred, in whole or in part, by an applicable
19 statutes of limitations.

20 3. Plaintiffs' claims are barred, in whole or in part, by waiver.

21 4. Plaintiffs' claims are barred, in whole or in part, by estoppel.

22 5. Plaintiffs' claims are barred, in whole or in part, by laches.

23 6. Plaintiffs' claims are barred to the extent they are based on alleged
24 acts, conduct or statements that are specifically permitted by law.

25 7. Plaintiffs' claims are barred to the extent the actions or practices of
26 Defendants that are subject of the Complaint were undertaken for legitimate
27 business reasons and are privileged and justified.
28

